

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 24, 2023

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ADLER BACH, LLC, a Washington
limited liability company,

Plaintiff,

v.

CHELAN COUNTY, a Washington
municipal corporation,

Defendant.

No. 2:23-CV-00054-ACE

ORDER GRANTING STIPULATED
MOTION TO DISMISS CLAIM

ECF Nos. 5, 9, 10 & 11

BEFORE THE COURT is an April 18, 2023 “Stipulation and Order to Dismiss Claim Under RCW 64.40.” ECF No. 9. Defendant previously filed a motion for partial summary judgment with respect to Plaintiff’s claim under RCW 64.40. ECF No. 5. Plaintiff is represented by Julie K. Norton; Defendant is represented by Kenneth W. Harper and Quinn N. Plant.

Claim I of Plaintiff’s Complaint alleges a cause of action against Defendant Chelan County under Wash. Rev. Code § 64.40 *et seq.* for arbitrary, capricious, and unlawful permit decisions. *See* Complaint ¶¶ 4.1-4.5. Defendant’s motion for partial summary judgment asserts the claim pursuant to § 64.40 is barred by the 30-day statute of limitations of Wash. Rev. Code § 64.40.030. *See* ECF No. 5. Plaintiff filed no response to the motion for partial summary judgment. Instead, the parties filed the instant stipulation to dismiss the claim, with prejudice, and without an award of costs or attorneys’ fees. ECF No. 9. Defendant subsequently

1 filed a motion to strike the motion for partial summary judgment, ECF No. 10, and
2 a motion to expedite the motion to strike, ECF No. 11.

3 Based on the foregoing and good cause appearing therefor, **IT IS HEREBY**
4 **ORDERED** the parties' stipulation to dismiss Plaintiff's claim under Ch. 64.40
5 RCW (Claim I in Plaintiff's Complaint), **ECF No. 9**, is **GRANTED**. Plaintiff's
6 claim under Wash. Rev. Code § 64.40 *et seq.*, as alleged at paragraph 4.1 through
7 4.5 of the Complaint, is **DISMISSED WITH PREJUDICE and without an**
8 **award of costs or attorneys' fees to any party.**

9 **IT IS FURTHER ORDERED** Defendant's motion to strike, **ECF No. 10**,
10 and corresponding motion to expedite, **ECF No. 11**, are **GRANTED**.
11 Consequently, Defendant's March 8, 2023 Motion for Partial Summary Judgment,
12 **ECF No. 5**, is **DENIED AS MOOT**.

13 **IT IS SO ORDERED.** The District Court Executive is directed to file this
14 Order and provide copies to counsel.

15 DATED April 24, 2023.



A handwritten signature in blue ink, reading "Alexander C. Ekstrom", is written over a horizontal line.

ALEXANDER C. EKSTROM

UNITED STATES MAGISTRATE JUDGE